



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Department of the Navy--Request for
Reconsideration
File: B-229491.2
Date: May 9, 1988

DIGEST

Request for reconsideration is denied where agency does not present evidence that original decision was based on errors of law or fact.

DECISION

The Department of the Navy requests reconsideration of our decision, Essex Electro Engineers, Inc., B-229491, Feb. 29, 1988, 88-1 CPD ¶ , in which we sustained Essex's protest of an award to Rosen Electrical Equipment Co., under Marine Corps request for proposals (RFP) No. N00146-87-R-0053, for motor-generator sets. The Navy challenges our finding that Rosen's proposal should not have been considered for award because it failed to comply with a mandatory requirement of the solicitation. We deny the request.

Essex asserted in its initial protest that, based on simple calculations derived from specifications contained in descriptive literature submitted with Rosen's proposal, the particular motor-generator set proposed by that firm could not meet the RFP requirement that the equipment be at least 85 percent efficient when generating at its rated output level. In a supplement to its administrative report on the protest, the Navy addressed the issue but did not question the accuracy of the calculations. Instead, the agency simply referred to a statement in Rosen's descriptive literature that the equipment met the 85 percent efficiency standard. We sustained the protest after we confirmed Essex's position that a motor-generator with a rated output of 100 kilowatts (kw), operating with an input of 180 horsepower (hp), as specified in Rosen's literature, could not operate at 85 percent efficiency. Since offering a different model of motor-generator, in our view, would have required a major revision of Rosen's proposal, we concluded that reopening the competition was not the appropriate remedy.

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Consequently, we recommended that Rosen's contract be terminated for convenience and that, if otherwise appropriate, award be made to Essex.

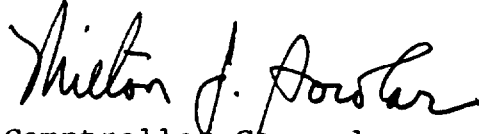
In its request for reconsideration, the Navy argues for the first time that we relied on an incorrect output rating in calculating the motor-generator's efficiency and that the model proposed by Rosen does meet the RFP requirement. Although 100 kw is the only output rating that appears in Rosen's descriptive literature in connection with an input of 180 hp, the Navy states that Rosen's equipment in fact does not require 180 hp to generate 100 kw. An input of 180 hp, according to the agency, is required only to meet another specification of the RFP pertaining to an overload capacity of 125 kw. If efficiency is calculated with an input of 180 hp and an output of 125 kw, rather than the 100 kw indicated in Rosen's literature, the Navy states, the efficiency rating is 93 percent, well in excess of that required by the solicitation.

We are not persuaded by the Navy's position. The agency does not indicate the source of the information on which its argument is based, and Rosen's literature, where it refers to efficiency at all, merely states that the offered equipment can meet the RFP's 85 percent requirement. The Navy does not indicate that the information it presents here was furnished by Rosen during discussions and, in any event, were this the case, the Navy would have been required to hold discussions with all offerors in a competitive range, including Essex. See generally Avitech, Inc., B-223203.2, Mar. 27, 1987, 87-1 CPD 351. Further, while it is theoretically possible for a motor-generator to operate at the very high level of 93 percent efficiency, such high efficiency is so unusual that an offeror in all likelihood would have highlighted the fact in its literature.

In any case, we long have held that parties that withhold or fail to submit all relevant evidence, information, or analyses for our initial consideration do so at their own peril. See Department of the Air Force--Reconsideration, B-222181.2, Nov. 10, 1986, 86-2 CPD ¶ 542. The Navy filed a supplement to its original administrative report for the

specific purpose of contesting Essex's assertions with respect to Rosen's efficiency rating, and thus could and should have presented the argument it raises here at some time during our initial consideration of the protest. Id.

The request for reconsideration is denied.

A handwritten signature in cursive script, reading "Milton J. Fowler".

Acting Comptroller General
of the United States